

Message Text

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ACTION DLOS-06

INFO OCT-01 ISO-00 ACDA-10 AGR-10 AID-05 CEA-01 CEQ-01

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EPA-04 ERDA-07 FMC-02 TRSE-00 H-02 INR-07 INT-05

IO-13 JUSE-00 L-03 NSAE-00 NSC-05 NSF-02 OES-06

OMB-01 PA-02 PM-04 PRS-01 SP-02 SS-15 USIA-15 SAL-01

FEA-01 AF-08 ARA-10 EA-09 EUR-12 NEA-10 /190 W

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FM USMISSION USUN NY

TO SECSTATE WASHDC 8819

UNCLAS SECTION 1 OF 2 USUN 3394

FROM LOS DEL

E.O. 11652: N/A

TAGS: PLOS

SUBJECT: US AND USSR PROPOSALS REGARDING THE SYSTEM OF ACCESS

1. FOLLOWING ARE TEXTS OF US AND SOVIET PROPOSALS

INTRODUCED IN COMMITTEE I WORKSHOP ON AUGUST 19.

2. BEGIN TEXT. UNITED STATES PROPOSALS REGARDING THE
SYSTEM OF ACCESS

ARTICLE 22

1. ACTIVITIES IN THE AREA SHALL BE CONDUCTED DIRECTLY BY
THE AUTHORITY THROUGH THE ENTERPRISE IN ACCORDANCE WITH
ANNEX I AND THE RULES, REGULATIONS AND PROCEDURES ADOPTED
BY THE AUTHORITY UNDER ARTICLE 28 (XII). FOR THIS PURPOSE,
THE ENTERPRISE SHALL ENTER INTO CONTRACTS WITH THE
AUTHORITY.

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2. ACTIVITIES IN THE AREA SHALL ALSO BE CONDUCTED DIRECTLY BY STATES PARTIES, OR STATE ENTERPRISES, OR PERSONS NATURAL OR JURIDICAL WHICH POSSESS THE NATIONALITY OF STATES PARTIES, SPONSORED BY SUCH STATES, OR ANY GROUP OF THE FOREGOING, IN ACCORDANCE WITH ANNEX I AND THE RULES, REGULATIONS AND PROCEDURES ADOPTED BY THE AUTHORITY UNDER ARTICLE 28(XII), BY MEANS OF ENTERING INTO CONTRACTS WITH THE AUTHORITY.

2. ALL CONTRACTS ENTERED INTO BY THE AUTHORITY PURSUANT TO PARAGRAPH 1 AND 2 OF THIS ARTICLE FOR ACTIVITIES IN THE AREA SHALL ENSURE EFFECTIVE FISCAL AND ADMINISTRATIVE SUPERVISION OVER SUCH ACTIVITIES FOR THE PURPOSE OF SECURING EFFECTIVE RULES, REGULATIONS AND PROCEDURES ADOPTED BY THE AUTHORITY UNDER ARTICLE 28(XII) AND SHALL BE DRAWN IN ACCORDANCE WITH ANNEX I. STATE PARTIES SPONSORING PERSONS NATURAL OR JURIDICAL UNDER PARAGRAPH 2 OF THIS ARTICLE SHALL ASSIST THE AUTHORITY BY TAKING ALL APPROPRIATE MEASURES TO ENSURE SUCH COMPLIANCE

ARTICLE23

1. IN THE EXERCISE OF ITS FUNCTIONS, THE AUTHORITY SHALL TAKE MEASURES PURSUANT TO THIS PART TO PROMOTE AND ENCOURAGE ACTIVITIES IN THE AREA.

2. THE AUTHORITY SHALL AVOID DISCRIMINATION IN THE GRANTING OF OPPORTUNITIES FOR SUCH ACTIVITIES AND IN THE EXERCISE OF ITS POWERS AND FUNCTIONS. NO RIGHT GRANTED PURSUANT TO THIS PART SHALL BE IMPAIRED BY THE AUTHORITY AND ALL SUCH RIGHTS SHALL BE FULLY SAFEGUARDED.

3. SPECIAL CONSIDERATION BY THE AUTHORITY, PURSUANT TO ARTICLES 10, 11 AND 26 PARAGRAPH 2(X), FOR THE INTERESTS AND NEEDS OF THE DEVELOPING COUNTRIES. PARTICULARLY THE LANDLOCKED AND GEOGRAPHICALLY DISADVANTAGED AMONG THEM, SHALL NOT BE DEEMED TO BE DISCRIMINATION.

ANNEX I

2. TITLE TO THE RESOURCES SHALL VEST IN THE CONTRACTOR AT THE MOMENT THEY ARE RECOVERED FROM THE AREA PURSUANT TO A CONTRACT WITH THE AUTHORITY.

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5. ON THE APPLICATION OF THE ENTERPRISE, ANY STATE PARTY, OR STATE ENTERPRISE, OR PERSONS NATURAL OR JURIDICAL WHICH POSSESSES THE NATIONALITY OF A STATE PARTY OR IS EFFECTIVELY CONTROLLED BY IT OR ITS NATIONALS AND IS SPONSORED BY A STATE PARTY, OR ANY GROUP OF THE FOREGOING (HEREINAFTER CALLED THE "APPLICANT"), THE AUTHORITY SHALL ENTER INTO A CONTRACT FOR THE CARRYING OUT OF EXPLORATION FOR, AND

EXPLOITATION OF THE RESOURCES OF THE AREA.

6. EVERY CONTRACT ENTERED INTO BY THE AUTHORITY

PURSUANT TO PARAGRAPH 5 SHALL:

(A) BE IN STRICT CONFORMITY WITH PART I OF THIS
CONVENTION AND THE RULES AND REGULATIONS
PRESCRIBED BY THE AUTHORITY IN ACCORDANCE WITH PART I
OF THIS CONVENTION;

(B) ENSURE EFFECTIVE FISCAL AND ADMINISTRATIVE
SUPERVISION BY THE AUTHORITY IN ACCORDANCE WITH
ARTICLE 22, PARAGRAPH 3.

7. (A) THE AUTHORITY SHALL ADOPT APPROPRIATE
ADMINISTRATIVE PROCEDURES AND RULES AND REGULATIONS
FOR MAKING AN APPLICATION PURSUANT TO PARAGRAPH 5, AND
THE QUALIFICATIONS OF ANY APPLICANT REFERRED TO
THEREIN. SUCH QUALIFICATIONS SHALL ONLY INCLUDE
(1) FINANCIAL STANDING, AND (2) TECHNOLOGICAL
CAPABILITY.

(B) THE ENTERPRISE AND STATES PARTIES WHICH
APPLY TO ENTER INTO CONTRACTS WITH THE AUTHORITY SHALL
BE PRESUMED TO POSSESS THE QUALIFICATIONS SPECIFIED
IN SUBPARAGRAPH (A).

(C) EACH APPLICANT SHALL, IN ADDITION, SUBMIT
TO THE AUTHORITY A WORK PROGRAMME WHICH SHALL FULLY
TAKE INTO ACCOUNT THE REQUIREMENTS OF THE RULES AND
REGULATIONS OF THE AUTHORITY.

(D) EACH APPLICANT SHALL UNDERTAKE TO COMPLY WITH
THE PROVISIONS OF PART I OF THIS CONVENTION AND THE
RULES AND REGULATIONS ADOPTED BY THE AUTHORITY, AND TO
ACCEPT SUPERVISION BY THE AUTHORITY IN ACCORDANCE
THEREWITH.

8. (A) UPON RECEIVING AN APPLICATION PURSUANT TO
PARAGRAPH 5 WITH RESPECT TO ACTIVITIES OF EXPLORATION
AND EXPLOITATION, THE AUTHORITY SHALL FIRST ASCERTAIN
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WHETHER ANY COMPETING APPLICATION HAS BEEN RECEIVED
FOR THE AREA APPLIED FOR. IF NO SUCH COMPETING
APPLICATION HAS BEEN RECEIVED, THE AUTHORITY SHALL
CONCLUDE, WITHIN 90 DAYS AFTER RECEIPT F THE
APPLICATION, A CONTRACT WITH THE APPLICANT IN RESPECT
OF THE AREA APPLIED FOR, PROVIDED THAT THE APPLICANT
HAS COMPLETED THE PROCEDURES AND POSSESSES THE
QUALIFICATIONS PRESCRIBED PURSUANT TO PARAGRAPHS 6 AND

7. THE AUTHORITY MAY NOT REFUSE TO ENTER INTO
A CONTRACT IF THE CRITERIA IN PARAGRAPH 9(D) HAVE
BEEN SATISFIED, AND THE CONTRACT IN ALL OTHER RESPECTS
IS IN STRICT CONFORMITY WITH THE PROVISIONS OF PART I
OF THIS CONVENTION AND OF THE RULES, REGULATIONS AND
PROCEDURES ADOPTED THEREUNDER. ASTERIK

ASTERIK THE PRECISE PROCEDURE FOR THE AWARE OF CONTRACTS
SHOULD BE TAKEN UP IN CONNECTION WITH THE
DISCUSSION OF ARTICLES 28 AND 31.

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ACTION DLOS-06

INFO OCT-01 ISO-00 FEA-01 ACDA-10 AGR-10 AID-05 CEA-01

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(B) IF THE AUTHORITY RECEIVES MORE THAN ONE
APPLICATION IN RESPECT OF SUBSTANTIALLY THE SAME
AREA AND CATEGORY OF MINERALS, SELECTION FROM AMONG
THE APPLICANTS SHALL BE MADE ON A COMPETITIVE BASIS
TAKING INTO ACCOUNT THE EXTENT TO WHICH EACH
APPLICANT SATISIES THE REQUIREMENTS OF PARAGRAPH
6 AND PARAGRAPH 7.

9. (A) THE ENTERPRISE, ANY STATE PARTY, OR ANY STATE
ENTERPRISE OR PERSON NATURAL OR JURIDICAL WHICH
POSSESSES THE NATIONALITY OF A STATE PARTY OR IS
EFFECTIVELY CONTROLLED BY IT OR BY ITS NATIONALS,
WHEN SPONSORED BY A STATE PARTY OR ANY GROUP OF THE
FOREGOING WHICH ENTERS INTO A CONTRACT FOR

ACTIVITIES RELATING TO EXPLORATION AND EXPLOITATION
WITH THE AUTHORITY PURSUANT TO PARAGRAPH 5 (HEREINAFTER
CALLED THE "CONTRACTOR") SHALL MAKE AVAILABLE ALL FUNDS,
MATERIALS, EQUIPMENT, SKILLS AND KNOW-HOW AS NECESSARY
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FOR THE CONDUCT OF OPERATIONS COVERED BY THE CONTRACT.

(B) THE COSTS INVOLVED IN THE PERFORMANCE OF THE
CONTRACT PURSUANT TO PARAGRAPH (A) SHALL BE RECOVERABLE
BY THE CONTRACTOR OUT OF THE PROCEEDS OF OPERATIONS OR
BY THE RESPECTIVE PARTIES IN THE EVENT THE AUTHORITY
HAS CONTRIBUTED TO THE COSTS OF PERFORMANCE.

(C) THE PROCEEDS OF OPERATIONS PURSUANT TO THE
CONTRACT AFTER DEDUCTION OF COSTS WHICH SHALL BE
CALCULATED ACCORDING TO ACCOUNTING RULES AND PROCEDURES
WHICH ARE IN GENERAL USE SHALL BE APPORTIONED BETWEEN
THE AUTHORITY AND THE CONTRACTOR IN THE MANNER SPECIFIED
IN THE CONTRACT IN ACCORDANCE WITH SUB-PARAGRAPH (D) OF
THIS PARAGRAPH.

(D) (FINANCIAL ARRANGEMENTS)
9 BIS. THE PROCEDURAL AND SUBSTANTIVE PROVISIONS OF THIS
ANNEX RELATING TO CONTRACTS SHALL APPLY MUTATIS
MUTANDIS TO THE ENTERPRISE. END TEXT

3. BEGIN TEXT. USSR PROPOSALS REGARDING THE SYSTEMS OF
ACCESS

ARTICLE 22

1. THE ACTIVITIES IN THE AREA SHALL BE CONDUCTED BY
STATES PARTIES AND DIRECTLY BY THE AUTHORITY. THE
AUTHORITY SHALL DETERMINE THE PART OF PARTS OF THE AREA
IN WHICH THE ACTIVITIES SHALL BE CARRIED OUT BY STATES
PARTIES AND THE PART OR PARTS OF THE AREA IN WHICH THE
ACTIVITIES SHALL BE CARRIED OUT DIRECTLY BY THE
AUTHORITY. AT ANY TIME THE TOTAL AREA OF THE PART OR
PARTS OF THE AREA IN WHICH THE ACTIVITIES SHALL BE
CARRIED OUT DIRECTLY BY THE AUTHORITY SHALL NOT
EXCEED THE TOTAL AREA OF THE PART OR PARTS OF THE AREA
IN WHICH THE ACTIVITIES SHALL BE CARRIED OUT BY STATES PARTIES.

2. (A) STATES PARTIES SHALL CARRY OUT THE
ACTIVITIES IN THE AREA PURSUANT TO PARAGRAPH 1 OF THIS
ARTICLE BY ENTERING INTO CONTRACTS WITH THE AUTHORITY
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WHICH SHALL BE IN ACCORDANCE WITH THE BASIC CONDITIONS PROVIDED FOR IN ANNEX 1. THESE CONTRACTS SHALL BE ENTERED IN BY THE AUTHORITY IN SUCH A MANNER AS TO ENSURE THE RIGHT FOR ALL STATES PARTIES TO CARRY OUT THE ACTIVITIES IN THE AREA IRRESPECTIVE OF THEIR GEOGRAPHICAL LOCATION, SOCIAL SYSTEM AND INDUSTRIAL DEVELOPMENT, TAKING INTO PARTICULAR CONSIDERATION THE NEEDS OF DEVELOPING COUNTRIES INCLUDING THOSE WHICH ARE LAND-LOCKED OR GOEGRAPHICALLY DISADVANTAGED.

(B) STATES PARTIES MAY, IF THEY CONSIDER IT APPROPRIATE AND WITHIN THE LIMITS SPECIFIED IN SUBPARAGRAPH (A) OF THIS PARAGRAPH, CARRY OUT THE ACTIVITIES THROUGH STATE ENTERPRISES OR JURIDICAL PERSONS REGISTERED IN THESE STATES AND EFFECTIVELY CONTROLLED BY THEM WHEN SPONSORED BY SUCH STATES AND EFFECTIVELY CONTROLLED BY THEM WHEN SPONSORED BY SUCH STATES IN ACCORDANCE WITH THE APPLICABLE PROVISIONS OF THE BASIC CONDITIONS SET FORTH IN ANNEX 1.

STATES PARTIES SPONSORING SUCH JURIDICAL PERSONS SHALL BE RESPONSIBLE FOR TAKING ALL APPROPRIATE MEASURES TO ENSURE THAT SUCH PERSONS COMPLY WITH THE PROVISIONS OF THIS PART, ANNEX 1 AND THE RULES, REGULATIONS AND PROCEDURES ADOPTED BY THE AUTHORITY UNDER ARTICLE 28.

(C) ALL CONTRACTS ENTERED INTO BY THE AUTHORITY PURSUANT TO THIS PARAGRAPH FOR THE ACTIVITIES IN THE AREA SHALL ENSURE EFFECTIVE FISCAL AND ADMINISTRATIVE SUPERVISION BY THE AUTHORITY OVER SUCH ACTIVITIES AND SHALL BE DRAWN IN ACCORDANCE WITH THE BASIC CONDITIONS PROVIDED FOR THE ANNEX 1.

3. (A) IN THE PART OR PARTS OF THE AREA, ESTABLISHED IN PARAGRAPH 1 OF THIS ARTICLE, WHERE THE ACTIVITIES MAY BE CONDUCTED DIRECTLY BY THE AUTHORITY SUCH ACTIVITIES SHALL BE CARRIED OUT IN ACCORDANCE WITH APPLICABLE PROVISIONS OF THE BASIC CONDITIONS SET FORTH IN ANNEX 1.

(B) IN THE PART OR PARTS OF THE AREA WHERE UNCLASSIFIED

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THE ACTIVITIES SHALL BE CONDUCTED DIRECTLY BY THE AUTHORITY, THE AUTHORITY MAY, IF IT CONSIDERS IT APPROPRIATE, AND WITHIN THE LIMITS IT MAY DETERMINE, CARRY OUT ACTIVITIES IN THE AREA OF ANY STAGE THEREOF

THROUGH STATES PARTIES TO THIS CONVENTION, OR STATE
ENTERPRISES, OR PERSONS NATURAL OR JURIDICAL WHICH
POSSESS THE NATIONALITY OF SUCH STATES OR ARE
EFFECTIVELY CONTROLLED BY SOME OF THEIR NATIONALS,
OR ANY GROUP OF THE FOREGOING, BY ENTERING INTO
SERVICE CONTRACTS, OF JOINT VENTURES OR ANY OTHER
SUCH FORM OF ASSOCIATION WHICH ENSURES ITS DIRECT AND
EFFECTIVE CONTROL AT ALL TIMES OVER SUCH ACTIVITIES.

END TEXT.
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